

# **EXHIBIT A**

**OFFICE LEASE**

**CONSTELLATION PLACE**

**CONSTELLATION PLACE, LLC,**

a Delaware limited liability company

as Landlord,

and

LEHMAN BROTHERS HOLDINGS INC., a Delaware corporation

as Tenant.

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**CONSTELLATION PLACE**

**OFFICE LEASE**

This Office Lease (inclusive of Exhibits A, A-1 through A-2, B, C, D, E, F, G, H, I, J, K, L and M, and the Summary, as defined below the "**Lease**"), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the "**Summary**"), below, is made by and between CONSTELLATION PLACE, LLC, a Delaware limited liability company ("**Landlord**"), and LEHMAN BROTHERS HOLDINGS INC., a Delaware corporation ("**Tenant**").

**SUMMARY OF BASIC LEASE INFORMATION**

**TERMS OF LEASE**

**DESCRIPTION**

1. Date: December 28, 2004, for reference purposes only ("**Reference Date**") with the actual effective date of this Lease being the date this Lease has been fully executed by authorized representatives of Landlord and Tenant ("**Effective Date**"). - Jan 18, 2005
2. Premises (Article 1).
  - 2.1 Premises: Approximately 42,940 rentable (37,966 usable) square feet of space in the Building, consisting of (i) approximately 21,666 rentable (19,195 usable) square feet of space on the 24<sup>th</sup> floor (the "**24<sup>th</sup> Floor Premises**") and (ii) approximately 21,274 rentable (18,771 usable) square feet of space on the 25<sup>th</sup> floor of the Building (the ("**25<sup>th</sup> Floor Premises**") (the 24<sup>th</sup> Floor Premises and the 25<sup>th</sup> Floor Premises shall be referred to herein as, collectively, the "**Premises**"), all as further set forth in Exhibit A to this Lease. The "**Premises**" shall consist of all of the rentable square feet leased by Tenant in the Building from time to time, and the "**Initial Premises**" shall consist of all the rentable square feet leased by Tenant in the Building as of the Lease Commencement Date. The initial estimate of the rentable and usable square footage of each floor of the Initial Premises and First Offer Space is set forth on Exhibit A-2 attached hereto. The parties agree to stipulate to the rentable and usable square feet on the 24<sup>th</sup> and 25<sup>th</sup> floors, but the space on

the 26<sup>th</sup> and 27<sup>th</sup> floor are subject to the remeasurement rights contained in Section 1.2 of this Lease.

2.2 Building.

2.2.1 Building Description:

That certain thirty-five (35) story, Class A+ office building, which is part of an office project currently known as "MGM Tower", containing approximately 775,037 rentable square feet of space, located at 10250 Constellation Boulevard, Los Angeles, California 90067 and as further set forth in Section 1.1.2 of this Lease.

2.2.2 Numerical Ordering of Floors:

The Building floors are listed as the ground floor, the second floor (the floor that is immediately above the ground floor) and then floors 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35. The ground floor is also actually the first floor, and there is no floor identified as the thirteenth floor so that the Building consists of the ground floor (also known as the first floor) and thirty-three (33) additional floors for a total of thirty-four (34) actual floors.

2.3 Project:

The Building is part of an office project currently known as "Constellation Place", as further set forth in Section 1.1.2 of this Lease.

3. Lease Term  
(Article 2).

3.1 Length of Term:

Twelve (12) years ("**Initial Term**").

3.2 Lease Commencement Date:

24<sup>th</sup> Floor Premises - May 1, 2005, subject to any "Commencement Date Delay" as that term is defined in Section 5.1 of the Tenant Work Letter attached hereto as Exhibit B. Tenant's obligation to pay Rent with respect to the 24<sup>th</sup> Floor Premises (and with respect to any Expansion Space leased by Tenant in accordance with the terms of Section 1.3 of this Lease) does not commence until November 19, 2005. The date of November

19, 2005 shall be extended by the same number of days of Commencement Date Delay by which the May 1, 2005 date is extended.

25<sup>th</sup> Floor Premises – November 1, 2007, subject to the terms of Section 2.1 of this Lease and subject to Commencement Date Delays. Notwithstanding the foregoing, Tenant's obligation to pay Rent with respect to the 25<sup>th</sup> Floor Premises does not commence until February 24, 2008, in accordance with the terms of this Lease.

The date of February 24, 2008 shall be extended by the same number of days of Commencement Date Delay by which the November 1, 2007 date is extended.

3.3 Lease Expiration Date:

April 30, 2017, subject to any Commencement Date Delay applicable to the 24<sup>th</sup> Floor. Provided, however, the Lease Expiration Date shall be the same date for all space leased by Tenant pursuant to this Lease, and therefore shall be the Lease Expiration Date applicable to the 24<sup>th</sup> Floor.

4. Base Rent (Article 3):

The parties agree that each of the following dates will be extended to reflect Commencement Date Delays, if any. If there are no Commencement Date Delays as to either of the 24<sup>th</sup> or 25<sup>th</sup> Floors, the following dates and dollar amounts shall not be changed. If there are different Commencement Date Delays as to each floor, then the date and monthly Installments of Base Rent shall be modified as to each floor to reflect such different dates resulting from different Commencement Date Delays applicable to each floor.

**24<sup>TH</sup> FLOOR**

<b>Period of Lease Term</b>	<b>Annual Base Rent</b>	<b>Monthly Installment of Base Rent</b>	<b>Monthly Rental Rate per Rentable Square Foot</b>
May 1, 2005 – November 18, 2005	\$0.00	\$0.00	\$0.00
November 19, 2005 – April 30, 2006	\$909,972.00	\$75,831.00	\$3.50
May 1, 2006 – April 30, 2007	\$938,571.12	\$78,214.26	\$3.61
May 1, 2007 – April 30, 2008	\$964,570.32	\$80,380.86	\$3.71
May 1, 2008 – April 30, 2009	\$993,169.44	\$82,764.12	\$3.82
May 1, 2009 – April 30, 2010	\$1,024,368.40	\$85,364.04	\$3.94
May 1, 2010 – April 30, 2011	\$1,055,567.50	\$87,963.96	\$4.06
May 1, 2011 – April 30, 2012	\$1,086,766.50	\$90,563.88	\$4.18
May 1, 2012 – April 30, 2013	\$1,117,965.60	\$93,163.80	\$4.30
May 1, 2013 – April 30, 2014	\$1,151,764.50	\$95,980.38	\$4.43
May 1, 2014 – April 30, 2015	\$1,188,163.40	\$99,013.62	\$4.57
May 1, 2015 – April 30, 2016	\$1,221,962.40	\$101,830.20	\$4.70
May 1, 2016 – April 30, 2017	\$1,258,361.20	\$104,863.44	\$4.84

**25<sup>TH</sup> FLOOR**

<b>Period of Lease Term</b>	<b>Annual Base Rent</b>	<b>Monthly Installment of Base Rent</b>	<b>Monthly Rental Rate per Rentable Square Foot</b>
November 1, 2007 – February 23, 2008	\$0.00	\$0.00	\$0.00
February 24, 2008 (the "25 <sup>th</sup> Floor Premises Rent Commencement Date") – April 30, 2008	\$947,118.48	\$78,926.54	\$3.71
May 1, 2008 – April 30, 2009	\$975,200.16	\$81,266.68	\$3.82
May 1, 2009 – April 30, 2010	\$1,005,834.70	\$83,819.56	\$3.94
May 1, 2010 – April 30, 2011	\$1,036,469.20	\$86,372.44	\$4.06
May 1, 2011 – April 30, 2012	\$1,067,103.80	\$88,925.32	\$4.18
May 1, 2012 – April 30, 2013	\$1,097,738.40	\$91,478.20	\$4.30
May 1, 2013 – April 30, 2014	\$1,130,925.80	\$94,243.82	\$4.43
May 1, 2014 – April 30, 2015	\$1,166,666.10	\$97,222.18	\$4.57
May 1, 2015 – April 30, 2016	\$1,199,853.60	\$99,987.80	\$4.70
May 1, 2016 – April 30, 2017	\$1,235,593.90	\$102,966.16	\$4.84

5. Base Year  
(Article 4): Calendar Year 2005.
6. Tenant's Share  
(Article 4):  
  
Approximately 2.7955% for the 24<sup>th</sup> Floor Premises  
  
Approximately 5.5404% for the entire Premises  
  
For all other space leased by Tenant, the Tenant's Share will be the rentable square feet in such space divided by the 775,037 rentable square feet in the Building.
7. Permitted Use  
(Article 5): General office use, and uses incidental thereto, including, at Tenant's option, subject to the terms of Article 5, the operation of a mini kitchen and small dining facility for use by Tenant's employees and invitees only, all consistent with the character of a first-class office building (the "**Permitted Use**").
8. Guarantors: Not applicable
9. Parking Pass Ratio  
(Article 28): Up to three (3) parking passes for every 1,000 rentable square feet of the Premises, located in the Project, subject to the terms of Article 28, of which eight (8) shall be VIP Parking.
10. Address of Tenant  
(Section 29.18):  
  
Lehman Brothers, Inc.  
745 7th Avenue, 29th Floor  
New York, NY 10019  
Attn: Jaime Fuertes  
  
and  
  
Lehman Brothers, Inc.  
745 7th Avenue, 29th Floor  
New York, NY 10019  
Attn: Beth E. Anisman, Senior Real Estate Counsel

with a copy of all notices regarding Events of Default, Estoppels, Subordinations and delays to:

DLA Piper Rudnick Gray Cary US LLP  
550 South Hope Street  
Suite 2300  
Los Angeles, CA 90071  
Attn: Michael Meyer, Esq.

and

CB Richard Ellis  
1840 Century Park East  
Suite 700  
Los Angeles, California 90067  
Attention: Mr. Jeff Pion  
Mr. Clay Hammerstein

11. Address of Landlord  
(Section 29.18):

See Section 29.18 of the Lease.

12. Broker(s)  
(Section 29.24):

The McCaslin Company  
1999 Avenue of the Stars  
Suite 1050  
Los Angeles, California 90067  
Attention: Mr. Mark McCaslin

CB Richard Ellis  
1840 Century Park East  
Suite 700  
Los Angeles, CA 90067  
Attention: Mr. Jeff Pion  
Mr. Clay Hammerstein

13. Tenant Improvement Allowance  
(Section 2 of **Exhibit B**):

\$55.00 per rentable square foot of the 24<sup>th</sup> Floor Premises, subject to the terms of Section 2.1.2 of this Lease, and, if the expansion right is exercised pursuant to Section 1.3.1 of this Lease, the Initial Expansion Space.

## ARTICLE 1

### PREMISES, BUILDING, PROJECT, AND COMMON AREAS

#### **1.1 Premises, Building, Project, and Common Areas.**

**1.1.1 Lease of the Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises set forth in Section 2.1 of the Summary (the "Premises"). The outline of the Premises is set forth in Exhibit A attached hereto. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions (the "TCCs") herein set forth, and Tenant and Landlord covenant as a material part of the consideration for this Lease to keep and perform each and all of such TCCs to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of Exhibit A is to show the location of the Premises in the Building, as that term is defined in Section 1.1.2 of this Lease. Except as specifically set forth in this Lease and in the Tenant Work Letter attached hereto as Exhibit B (the "Tenant Work Letter"), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Tenant Work Letter.

**1.1.2 The Building and The Project.** The term "Building", as used herein, shall refer to the Building set forth in Section 2.2 of the Summary. The term "Project," as used herein, shall refer to the office project currently known as Constellation Place and shall consist of (i) the Building and the Common Areas, including the Project parking facility as generally shown on the Project Site Plan attached hereto as Exhibit A-1; and (ii) the land (which is improved with landscaping, parking areas and other improvements) upon which the Building and the Common Areas are located as generally shown on the Project Site Plan.

**1.1.3 Common Areas.** Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the "Rules and Regulations" referred to in Article 5 of this Lease, those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (such areas, together with such other portions of the Project designated by Landlord, in the exercise of its reasonable discretion, including certain areas from time to time designated for the temporary exclusive use of certain tenants, or to be shared by Landlord and certain tenants, are collectively referred to herein as the "Common Areas"). The Common Areas shall consist of the "Project Common Areas" and the "Building Common Areas." The term "Project Common Areas," as used in this Lease, shall mean the portion of the Project reasonably designated as such by Landlord. The term "Building Common Areas," as used in this Lease, shall mean the portions of the Common Areas located within the Building designated as such by Landlord in the exercise of its reasonable discretion. The manner in which the Common Areas are maintained and operated shall be at the reasonable discretion of Landlord and the use thereof shall be subject to such reasonable Rules and Regulations as Landlord may make from time to time as provided in



Section 5.2 of this Lease, provided that Landlord shall at all times maintain and operate the Common Areas in a first class manner materially consistent with the "Comparable Buildings," as such term is defined in Section 2.2.5 of this Lease. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas, as long as such changes do not change the nature of the Project to something other than a first class office building project or adversely and materially effect Tenant's use of the Premises for the Permitted Use, as set forth in Section 7 of the Summary, or Tenant's ingress to or egress from the Project, Building, the Premises or the parking areas servicing the same. Except when and where Tenant's right of access is specifically excluded as the result of (i) an emergency, (ii) a requirement by law, or (iii) a specific provision set forth in this Lease, Tenant shall have the right of ingress and egress to the Premises, the Building, and the Project parking areas twenty-four (24) hours per day, seven (7) days per week, every day of the year, commencing on the date the Premises are Ready For Occupancy, and continuing until the date this Lease terminates.

**1.2 Verification of Rentable Square Feet of Premises and Building.** For purposes of this Lease, "rentable square feet" and "usable square feet" of the Premises shall be deemed as set forth in Section 2.2 of the Summary and shall not be subject to remeasurement or modification. The usable square footage of the "Expansion Space," as that term is defined in Section 1.3 of this Lease and the "First Offer Space," as that term is defined in Section 1.4 of this Lease, shall be determined in accordance with the standards set forth in ANSI Z65.1-1996, as promulgated by the Building Owners and Managers Association (the "**BOMA Standard**"). The rentable square footage for all areas of the Expansion Space and/or First Offer Space shall be equal to the product of (a) the usable square footage, as determined by the BOMA Standard, and (b) the "load factor" applicable to the floor of the Building on which any particular portion of the Expansion Space and/or First Offer Space is located (such determination base on the BOMA Standard and the applicable load factor, the "**RSF BOMA Standard**"). The full floor "load factors" for each of the floors of the Building which are included in the Initial Premises and the First Offer Space are set forth in Exhibit A-2 attached hereto, and the partial floor load factor is also listed on Exhibit A-2 for the 26<sup>th</sup> and 27<sup>th</sup> floors. If upon the leasing of any Expansion Space and/or First Offer Space the parties are unable to agree as to the rentable square feet in such space, the determinations of such rentable square feet shall be determined by this Section 1.2 and Section 29.17 (Arbitration) of this Lease.

**1.3 Expansion Space.**

**1.3.1 Initial Expansion Space.** Landlord hereby grants to the originally named Tenant herein or a "Qualified Tenant," as that term is defined in Section 2.2.1 of this Lease, the right to lease approximately 10,000 rentable square feet of space located on the twenty-sixth (26<sup>th</sup>) floor of the Building (the "**Initial Expansion Space**"), the precise amount and location of which Initial Expansion Space shall be designated by Landlord, upon the terms and conditions set forth in this Section 1.3 and this Lease.

**1.3.1.1 Method of Exercise.** The expansion option contained in this Section 1.3.1 shall be exercised by the originally named Tenant herein (the "**Original Tenant**") or a Qualified Tenant and only upon the delivery by Tenant of written notice to Landlord

("Initial Expansion Exercise Notice") not more than three (3) months following the full execution and delivery of this Lease, stating that Tenant is exercising its option.

**1.3.1.2 Delivery of the Initial Expansion Space.** Landlord shall deliver the Expansion Space to Tenant promptly following Landlord's receipt of the Initial Expansion Exercise Notice.

**1.3.1.3 Initial Expansion Rent.** The Rent payable by Tenant for the Initial Expansion Space leased by Tenant shall be equal to the same rate at which Rent is payable by Tenant under this Lease for the initial Premises, and shall include all applicable escalations to the Rent made and to be made during the Lease Term.

**1.3.1.4 Construction of Initial Expansion Space.** The condition of the Initial Expansion Space and the construction of improvements in the Initial Expansion Space shall be governed by the terms of the Tenant Work Letter attached hereto as **Exhibit B** to this Lease, including the payment of a Tenant Improvement Allowance and Landlord's Drawing Contribution in the amount, on a per rentable square feet basis, set forth in **Section 2.1** of the Tenant Work Letter; provided, however, that Landlord shall be responsible for the costs incurred to construct a multi-tenant corridor on the twenty-sixth (26<sup>th</sup>) floor of the Building, to the extent necessary, and (ii) Landlord and Tenant shall each be responsible for fifty percent (50%) of the costs incurred to demise the Expansion Space from the remainder of the twenty-sixth (26<sup>th</sup>) floor of the Building, to the extent necessary. Tenant shall receive an improvement allowance in an amount equal to \$55.00 per rentable square foot of the Initial Expansion Space, subject to and in accordance with the terms of the Tenant Work Letter attached hereto as **Exhibit B**.

**1.3.1.5 Amendment to Lease.** If Tenant timely exercises Tenant's right to lease the Initial Expansion Space as set forth herein, Landlord and Tenant shall within fifteen (15) business days thereafter execute an amendment adding such Initial Expansion Space to the Lease upon the same terms and conditions as the 24<sup>th</sup> Floor Premises. Tenant shall commence payment of Rent for the Initial Expansion Space on November 19, 2005, and such date shall be extended by one (1) day for each day of Commencement Date Delay that is applicable to the Initial Expansion Space. The term of Tenant's lease of the Initial Expansion Space shall commence upon the Lease Commencement Date for the 24<sup>th</sup> Floor Premises, which date shall be extended by one (1) day for each day of Commencement Date Delay applicable to the Initial Expansion Space. The lease term of the Expansion Space shall expire, unless earlier terminated or extended in accordance with the terms of this Lease, on the Lease Expiration Date.

**1.3.1.6 No Defaults.** The rights contained in this **Section 1.3.1** shall be personal to the Original Tenant and a Qualified Tenant and may only be exercised by the Original Tenant or a Qualified Tenant (and not any sublessee or other transferee of the Original Tenant's interest in this Lease) if the Original Tenant or a Qualified Tenant, together with Tenant's Occupants, occupies at least seventy-five percent (75%) of the Premises. Tenant shall not have the right to lease Initial Expansion Space as provided in this **Section 1.3.1**, if, as of the date of the attempted exercise of the expansion option by Tenant, or as of the scheduled date of delivery of such Initial Expansion Space to Tenant, Tenant is in Default under this Lease.

**1.3.2 Second Expansion Space.** Landlord hereby grants to the Original Tenant or a Qualified Tenant the right to lease (i) in the event Tenant fails to lease the Initial Expansion Space subject to and in accordance with the terms of Section 1.3.1, above, approximately 10,000 rentable square feet of space located on the twenty-sixth (26<sup>th</sup>) floor of the Building, the precise amount of and the location of which Initial Expansion Space shall be designated by Landlord; and (ii) in the event Tenant leases the Initial Expansion Space subject to and in accordance with the terms of Section 1.3.1, above, that portion of the twenty-sixth (26<sup>th</sup>) floor of the Building which is not then leased by Tenant (either item (i) or (ii), the "Second Expansion Space"), upon the terms and conditions set forth in this Section 1.3.2 and this Lease.

**1.3.2.1 Method of Exercise.** The expansion option contained in this Section 1.3.2 shall be exercised upon delivery by Tenant of written notice to Landlord (the "Second Expansion Space Notice") not less than nine (9) months prior to the first day of the sixth (6<sup>th</sup>) Lease Year, stating that Tenant is exercising its option.

**1.3.2.2 Delivery of the Second Expansion Space.** Landlord shall deliver the Second Expansion Space to Tenant within the six (6) month period commencing three (3) months prior to the first day of the sixth (6<sup>th</sup>) Lease Year, and expiring three (3) months following the first (1<sup>st</sup>) day of the sixth (6<sup>th</sup>) Lease Year (the "Delivery Period"). Within thirty (30) days following Landlord's receipt of the Second Expansion Space Notice, Landlord shall deliver to Tenant a notice specifying the date within the Delivery Period on which the Landlord intends to deliver the Second Expansion Space to Tenant (the "Delivery Date").

**1.3.2.3 Second Expansion Rent.** The Rent payable by Tenant for the Second Expansion Space leased by Tenant (the "Second Expansion Space Rent") shall be equal to the "Fair Rental Value," as that term is defined in Section 2.2.5 of this Lease. Landlord shall notify Tenant of the Second Expansion Space Rent within sixty (60) days following Landlord's receipt of the Second Expansion Space Notice. In the event that within thirty (30) days following Tenant's receipt of the Second Expansion Space Rent, Tenant does not notify Landlord that it accepts the Second Expansion Space Rent, the Second Expansion Space Rent shall be determined in accordance with the procedure as set forth in Section 2.2.4 of this Lease.

**1.3.2.4 Construction of Second Expansion Space.** Tenant shall accept the Second Expansion Space in its "as is" condition, provided that the Building Systems and Building Structure within and/or servicing the Second Expansion Space shall be in good condition, repair and operating order and in compliance with, and as required by, applicable governmental codes and regulations applicable to new construction disregarding variances and grandfathered rights to the extent required to allow legal occupancy of such Second Expansion Space as of the date of delivery thereof to Tenant and necessary for Tenant to obtain certificate of occupancy after Tenant's completion of its Alterations (assuming Tenant otherwise built its Alterations in compliance with all applicable governmental codes and regulations and such Alterations are general office improvements), and such condition shall be considered in determining the Fair Rental Value for such Second Expansion Space; provided, however, that Landlord shall be responsible for the costs incurred to construct a multi-tenant corridor on the twenty-sixth (26<sup>th</sup>) floor of the Building, to the extent necessary, and (ii) Tenant shall be responsible for the costs incurred to demise the Second Expansion Space from the remainder of the twenty-sixth (26<sup>th</sup>) floor of the Building, to the extent necessary. The construction of

improvements in the Second Expansion Space shall comply with the terms of Article 8 of this Lease. Tenant shall receive an improvement allowance to the extent granted pursuant to the determination of the Fair Market Value.

**1.3.2.5 Amendment to Lease.** If Tenant timely exercises Tenant's right to lease the Second Expansion Space as set forth herein, Landlord and Tenant shall within fifteen (15) business days thereafter execute an amendment adding such Second Expansion Space to the Lease upon the same terms and conditions as the initial Premises, except as otherwise set forth in this Section 1.3.2. Tenant shall commence payment of Rent for the Second Expansion Space and the term of the Initial Expansion Space shall commence upon the date which is the earlier to occur of (i) the date upon which Tenant first commences to conduct business in the Second Expansion Space, and (ii) the date which is ninety (90) days after the later of (x) the Delivery Date, and (y) the date Landlord delivers the Second Expansion Space to Tenant, which period shall be extended for any Commencement Date Delay as defined in Section 5 of the Tenant Work Letter attached hereto as Exhibit B (the "**Second Expansion Space Commencement Date**"). The Second Expansion Space Rent shall be adjusted to account for the extent to which the 90-day period granted above is or is not a part of the Fair Rental Value of such Second Expansion Space. The lease term of the Second Expansion Space shall expire, unless earlier terminated or extended in accordance with the terms of this Lease, on the Lease Expiration Date.

**1.3.2.6 No Defaults.** The rights contained in this Section 1.3.2 shall be personal to the Original Tenant and a Qualified Tenant and may only be exercised by the Original Tenant or a Qualified Tenant (and not any sublessee or other transferee of the Original Tenant's interest in this Lease) if the Original Tenant or a Qualified Tenant, together with Tenant's Occupants, occupies at least seventy-five percent (75%) of the Premises. Tenant shall not have the right to lease Second Expansion Space as provided in this Section 1.3.2, if, as of the date of the attempted exercise of the expansion option by Tenant, or as of the scheduled date of delivery of such Second Expansion Space to Tenant, Tenant is in Default under this Lease.

**1.4 Right of First Offer.** Subject to the terms set forth in this Section 1.4, during the Lease Term, Landlord hereby grants to the Original Tenant or any Qualified Tenant an ongoing right of first offer in connection with any available space located on the twenty-sixth (26<sup>th</sup>) and twenty-seventh (27<sup>th</sup>) floors of the Building (the "**First Offer Space**"). Tenant's right of first offer shall be on the terms and conditions set forth in this Section 1.4. Notwithstanding the foregoing, such first offer right of Tenant shall commence only following the expiration or earlier termination of initial leases (including any renewals of such leases) of the First Offer Space, and such right of first offer shall be subordinate to the rights of International Lease Finance Corporation, a California corporation ("**ILFC**") which are set forth in ILFC's existing lease of space in the Project, and listed on Exhibit M, attached hereto, and in any of the initial leases of the First Offer Space made after the date hereof, including any renewal, extension or expansion rights set forth in such leases, regardless of whether such renewal, extension or expansion rights are executed strictly in accordance with their terms, or pursuant to a lease amendment or a new lease (collectively, the "**Superior Rights**") with respect to such First Offer Space.

**1.4.1 Procedure for Offer.** Landlord shall notify Tenant (the "**First Offer Notice**") from time to time when the First Offer Space or any portion thereof becomes available

for lease to third parties, provided that no holder of any Superior Rights wishes to lease such space pursuant to any Superior Right. Pursuant to such First Offer Notice, Landlord shall offer to lease to Tenant the then available First Offer Space. The First Offer Notice shall describe the space so offered to Tenant shall include a floor plan and shall set forth the "First Offer Rent," as that term is defined in Section 1.4.3 below, the proposed term of the lease for such First Offer Space, and the date the specified First Offer Space is anticipated to be delivered to Tenant (the "First Offer Delivery Date").

**1.4.2 Procedure for Acceptance.** If Tenant wishes to exercise Tenant's right of first offer with respect to the space described in the First Offer Notice, then within ten (10) business days of delivery of the First Offer Notice to Tenant, Tenant shall deliver notice to Landlord of Tenant's election to exercise its right of first offer with respect to the entire space described in the First Offer Notice on the terms contained in such notice. In the event that concurrent with Tenant's exercise of its rights under this Section 1.4, Tenant notifies Landlord that it does not accept the First Offer Rent set forth in the First Offer Notice, the First Offer Rent shall be determined in accordance with the same procedure as set forth in Section 2.2.4 of this Lease. If Tenant does not so notify Landlord within the ten (10) business day period, then Landlord shall be free, for a period of six (6) months, to lease the space described in the First Offer Notice to anyone to whom Landlord desires on any terms Landlord desires; provided, however, that prior to leasing less than all of the space offered to Tenant in such First Offer Notice, Landlord must offer such reduced amount of space to Tenant on the terms of this Section 1.4, and, in the event Landlord fails to lease such First Offer Space to a third party within such six (6) month period, Landlord shall again be obligated to deliver a First Offer Notice to Tenant, and Tenant shall again have the right to lease the First Offer Space, in accordance with the terms of this Section 1.4.2. Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of first offer, if at all, with respect to all of the space offered by Landlord to Tenant at any particular time, and Tenant may not elect to lease only a portion thereof.

**1.4.3 First Offer Space Rent.** The Rent payable by Tenant for the First Offer Space (the "First Offer Rent") shall be equal to Landlord's proposed First Offer Rent or the Fair Rental Value for the First Offer Space.

**1.4.4 Construction in First Offer Space.** Tenant shall accept the First Offer Space in its "as is" condition, provided that the Building Systems and Building Structure within and/or servicing the First Offer Space shall be in good condition, repair and operating order and in compliance with, and as required by, applicable governmental codes and regulations applicable to new construction disregarding variances and grandfathered rights to the extent necessary for Tenant to obtain certificate of occupancy after Tenant's completion of its Alterations (assuming Tenant otherwise built its Alterations in compliance with all applicable governmental codes and regulations and such Alterations are general office improvements), and such condition shall be considered in determining the Fair Rental Value for such First Offer Space. The Tenant shall receive an improvement allowance with respect to the First Offer Space to the extent granted pursuant to the determination of the Fair Market Value. The construction of improvements in the First Offer Space shall comply with the terms of Article 8 of this Lease, and the amount of any tenant improvement allowance to be granted to Tenant for the costs relating to the initial design and construction of Tenant's improvements in the First Offer Space shall be

determined as a component of the Fair Rental Value in accordance with the terms of Section 1.4.3, above.

**1.4.5 Amendment to Lease.** If Tenant timely exercises Tenant's right to lease the First Offer Space upon the terms set forth herein, Landlord and Tenant shall within fifteen (15) days thereafter execute an amendment to this Lease for such First Offer Space upon the terms and conditions as set forth in the First Offer Notice and this Section 1.4.5. Tenant shall commence payment of Rent (subject to the granting of free rent pursuant to the definition of Fair Rental Value) for the First Offer Space, and the term of the First Offer Space shall commence on the earlier of (i) the date Tenant commences business operations from such First Offer Space or (ii) one hundred twenty (120) days after the later of (A) the First Offer Delivery Date or (B) the date such First Offer Space is actually delivered to Tenant ("**First Offer Commencement Date**"). The First Offer Rent shall be adjusted to account for the extent to which the 120-day period granted above is or is not a part of the Fair Rental Value of such First Offer Space. The term of Tenant's lease of the First Offer Space shall expire upon the Lease Expiration Date, as may be extended pursuant to the terms of Section 2.2 of this Lease, or any earlier date to the extent required by existing encumbrances on such First Offer Space.

**1.4.6 Termination of Right of First Offer.** The rights contained in this Section 1.4 shall be personal to the Original Tenant and a Qualified Tenant and may only be exercised by the Original Tenant or a Qualified Tenant (and not any sublessee or other transferee of the Original Tenant's interest in this Lease) if the Original Tenant or a Qualified Tenant, together with Tenant's Occupants, occupies at least seventy-five percent (75%) of the Premises. Tenant shall not have the right to lease the First Offer Space, as provided in this Section 1.4, if, as of the date of the attempted exercise of any such rights a Material Default by Tenant exists under this Lease. Tenant's rights under this Section 1.4 shall terminate after the date which is twenty-four (24) months prior to the Lease Expiration Date, unless and until Tenant exercises an applicable renewal right in which event such rights shall be reinstated and revived.

## ARTICLE 2

### LEASE TERM; OPTION TERMS

#### **2.1 Initial Lease Term.**

**2.1.1 Lease Term.** The TCCs of this Lease shall be effective as of the "Effective Date" of this Lease (the Effective Date of this Lease is set forth in Section 1 of the Summary). The term of this Lease (the "**Lease Term**") shall be as set forth in Section 3.1 of the Summary, and shall commence on the date set forth in Section 3.2 of the Summary, subject to delay pursuant to Section 5.1 of the Tenant Work Letter (the "**Lease Commencement Date**"). Accordingly, the Lease Commencement Date with respect to the 24<sup>th</sup> Floor Premises shall, subject to the terms of Section 3.2 of the Summary, occur on November 19, 2005, and, subject to the terms of Section 2.1.2, below, the Lease Commencement Date with respect to the 25<sup>th</sup> Floor Premises shall, subject to the terms of this Section 2.1, and subject to the terms of Section 3.2 of the Summary, occur on November 1, 2007. The Lease Term shall expire on the date set forth in Section 3.3 of the Summary, subject to delay pursuant to Section 5.1 of the Tenant Work Letter (the "**Lease Expiration Date**") unless this Lease is sooner terminated or extended as provided in

this Lease. For purposes of this Lease, the term "**Lease Year**" shall mean each consecutive twelve (12) month period commencing on the Lease Commencement Date during the Lease Term. Within six (6) months following the Lease Commencement Date, Landlord shall deliver to Tenant a Notice in the form as set forth in Exhibit C, attached hereto, which Tenant shall execute and return to Landlord within twenty (20) business days of receipt thereof (provided that if said Notice of Lease Term Dates is not factually correct, then Tenant shall make such changes as are necessary to make the Notice of Lease Term Dates factually correct and shall thereafter execute and return such Notice of Lease Term Dates to Landlord within such twenty (20) business day period), and thereafter the dates set forth on such Notice of Lease Term Dates shall be conclusive and binding upon Tenant and Landlord, unless Landlord within fifteen (15) business days following receipt of Tenant's changes sends a Notice to Tenant rejecting Tenant's changes, whereupon this procedure shall be repeated until the parties either (a) mutually agree upon the contents of the Notice of Lease Term Dates, or (b) the contents are determined by arbitration pursuant to Section 29.17. In the event Landlord shall fail to send Tenant the Notice of Lease Term Dates within six (6) months following the Lease Commencement Date, Tenant may send to Landlord Notice of the occurrence of the Lease Commencement Date substantially in the form of the Notice of Lease Term Dates which Notice of Lease Term Dates Landlord shall acknowledge by executing a copy of the Notice of Lease Term Dates and returning it to Tenant (provided that if said Notice of Lease Term Dates is not factually correct, Landlord shall make such changes to the Notice of Lease Term Dates as are necessary to make such Notice of Lease Term Dates factually correct, which revised Notice of Lease Term Dates shall thereafter be subject to the procedure for finalization set forth in this Section 2.1). Tenant's testing of equipment shall not constitute the commencement of business.

**2.1.2 Tenant Right to Accelerate Lease Commencement Date for 25<sup>th</sup> Floor Premises and 25<sup>th</sup> Floor Premises Rent Commencement Date.**

**2.1.2.1 25<sup>th</sup> Floor Acceleration Notice.** Notwithstanding anything to the contrary contained herein, Tenant shall have the right, upon the delivery of not less than thirty (30) days prior written notice to Landlord, setting forth a date which is prior to the original 25<sup>th</sup> Floor Premises Rent Commencement Date (the "**25<sup>th</sup> Floor Acceleration Notice**"), to accelerate, at Tenant's option, (i) the Lease Commencement Date with respect to the 25<sup>th</sup> Floor Premises, and/or (ii) the 25<sup>th</sup> Floor Premises Rent Commencement Date. Following Tenant's delivery of the 25<sup>th</sup> Floor Acceleration Notice, (A) if Tenant has elected to accelerate the Lease Commencement Date with respect to the 25<sup>th</sup> Floor Premises, then the Lease Commencement Date with respect to the 25<sup>th</sup> Floor Premises shall occur on the applicable date set forth in such notice, and (B) if Tenant has elected to accelerate the 25<sup>th</sup> Floor Premises Rent Commencement Date, then the 25<sup>th</sup> Floor Premises Rent Commencement Date shall occur on the applicable date set forth in such notice, and the Base Rent schedule with respect to the 25<sup>th</sup> Floor Premises shall be modified to provide for the acceleration of Tenant's obligation to pay Base Rent for the 25<sup>th</sup> Floor Premises subject to and in accordance with the terms of Section 2.1.2.2, below. If Tenant elects to accelerate the 25<sup>th</sup> Floor Premises Rent Commencement Date, Tenant shall be entitled to receive a tenant improvement allowance with respect to the 25<sup>th</sup> Floor Premises in an amount equal to the amount of "Additional 25<sup>th</sup> Floor Premises Base Rent," as that term is defined in Section 2.1.2.2, below (the "**Additional Tenant Improvement Allowance**"). The Additional Tenant Improvement Allowance shall be disbursed by Landlord and utilized by Tenant subject to and in accordance with the terms of the Tenant Work Letter attached hereto as Exhibit B.

**2.1.2.2 Calculation of Acceleration of Additional 25<sup>th</sup> Floor Premises Base Rent.** Along with the revised 25<sup>th</sup> Floor Premises Rent Commencement Date, the 25<sup>th</sup> Floor Acceleration Notice shall state the corresponding amount of Additional Tenant Improvement Allowance which Tenant is to receive in connection therewith, which amount shall in no event exceed One Million One Hundred Seventy Thousand Seventy and No/100 Dollars (\$1,170,070.00). Immediately following any accelerated 25<sup>th</sup> Floor Premises Rent Commencement Date, Tenant shall commence to pay Base Rent with respect to the 25<sup>th</sup> Floor Premises in an amount equal to the Base Rent, on a per rentable square foot basis, which is payable by Tenant for the 24<sup>th</sup> Floor Premises for the period commencing as of the accelerated 25<sup>th</sup> Floor Premises Rent Commencement Date and continuing until the original 25<sup>th</sup> Floor Premises Rent Commencement Date (the "**Accelerated Rent Period**"). Such Base Rent payable during the Accelerated Rent Period is referred to herein as the "**Additional 25<sup>th</sup> Floor Premises Base Rent**."

**2.1.3 Use of Premises Prior To Lease Commencement Date.** Following the delivery of any portion of the Premises to Tenant, Tenant shall have the right to commence to install its furniture, fixtures and equipment, including, to the extent not included in the Final Working Drawings, telephone, data and computer cabling, in such portion of the Premises, provided that, all of the terms of this Lease shall apply to such portions of the Premises, other than Tenant's obligations to pay Base Rent or Tenant's Share of Direct Expenses attributable to such portions of the Premises, which obligations, except as otherwise set forth in this Section 2.1.3, below, shall commence on the Lease Commencement Date. Additionally, notwithstanding the definition of the Lease Commencement Date for the Premises set forth in Section 3.2 of the Summary, above, and notwithstanding the fact that subject to the terms of Section 2.1.2, above, Tenant's obligation to commence the payment of Rent for the 25<sup>th</sup> Floor Premises does not commence until February 24, 2008, Tenant shall have the right, (i) with respect to the 24<sup>th</sup> Floor Premises only, prior to the occurrence of the Lease Commencement Date applicable to the 24<sup>th</sup> Floor Premises, and (ii) with respect to the 25<sup>th</sup> Floor Premises, following the occurrence of the Lease Commencement Date applicable to the 25<sup>th</sup> Floor Premises, to commence business operations from any portion of the applicable Premises (such space, the "**Early-Occupancy Space**"), provided that (i) Tenant shall give Landlord at least ten (10) days prior notice of any such use of the applicable portion of the Premises, and (ii) a temporary certificate of occupancy or its equivalent permitting occupancy shall have been issued by the appropriate governmental authorities for the Early-Occupancy Space. If Tenant does commence business operations from any Early-Occupancy Space prior to the occurrence of the Lease Commencement Date, all of the terms and conditions of this Lease shall apply to such Early-Occupancy Space, including without limitation, Tenant's obligation to pay for parking passes pursuant to Article 28 below, except that Tenant shall have no obligation to pay Base Rent nor any Direct Expenses which are attributable to the period of such occupancy prior to the Lease Commencement Date (the "**Early Occupancy Period**").

## **2.2 Option Terms.**

**2.2.1 Option Right.** Landlord hereby grants to Tenant and a Qualified Tenant two (2) options to extend the Lease Term for all or, as set forth in Section 2.2.6, below, a portion of the Premises for a period of five (5) years (each, an "**Option Term**"). Each of such options shall be exercisable only by Notice delivered by Tenant to Landlord as provided below,



provided that, as of the date of delivery of such Notice, Tenant is not in Material Default under Section 19.1 of this Lease. Upon the proper exercise of such option to extend, the Lease Term, as it applies to the Premises (as such Premises may be reduced pursuant to Section 2.2.6, below), shall be extended for a period of five (5) years. The rights contained in this Section 2.2 shall be personal to Original Tenant and a Qualified Tenant and may be exercised by Original Tenant or a Qualified Tenant only (and not by any sublessee or other "Transferee," as that term is defined in Section 14.1 of this Lease, of Tenant's interest in this Lease), if the Lease then remains in full force and effect and the Original Tenant and/or a Qualified Tenant (together with any of Tenants Occupants) occupies at least fifty percent (50%) of the Premises at the time the particular option to extend is exercised. A "Qualified Tenant" shall mean the Original Tenant, an assignee of the Original Tenant approved by Landlord pursuant to Article 14 of the Lease, and/or an "Affiliate," as that term is defined in Section 14.8 of this Lease. For purposes of the preceding sentence, an assignee shall include only assignees which are permitted or approved in accordance with the terms of Article 14 of this Lease.

**2.2.2 Option Rent.** The annual Rent payable by Tenant during the Option Term (the "Option Rent") shall be equal to one hundred percent (100%), of the "Fair Rental Value," as that term is defined below, for the Premises (or portion thereof to be leased by Tenant during the Option Term) as of the commencement date of such Option Term.

**2.2.3 Exercise of Options.** The options contained in this Section 2.2 shall be exercised by Tenant, if at all, only in the manner set forth in this Section 2.2.3. Tenant may deliver Notice (the "Interest Notice") to Landlord not more than eighteen (18) months nor less than fifteen (15) months prior to the expiration of the then Lease Term, stating that Tenant is interested in exercising its option. Provided that Tenant timely delivers the Interest Notice, on a date (the "Option Rent Exchange Date") and at a time mutually and reasonably agreed upon by Landlord and Tenant not later than fourteen (14) months prior to the expiration of the then Lease Term, Landlord and Tenant shall each simultaneously deliver to the other party such party's calculation of the Option Rent (the "Landlord's Option Rent Calculation" and the "Tenant's Option Rent Calculation," respectively). If Tenant wishes to exercise the then applicable option, Tenant shall, on or before the date occurring twelve (12) months prior to the expiration of the initial Lease Term or the first or second Option Term, as applicable, exercise the option by delivering Notice (the "Option Exercise Notice") thereof to Landlord, and upon, and concurrent with, such exercise, Tenant may, at its option, if it had previously sent the Interest Notice, accept the Option Rent contained in the Landlord's Option Rent Calculation. If Tenant does not affirmatively accept or reject the Option Rent specified in the Landlord's Option Rent Calculation, the parties shall follow the procedure, and the Option Rent shall be determined as set forth in Section 2.2.4 except that if the Tenant sent its Interest Notice, Tenant's Option Rent Calculation and Landlord's Option Rent Calculation submitted pursuant to the Interest Notice shall be the calculations submitted to the arbitrators. After the date which is eighteen (18) months prior to the expiration of the Lease Term, and, at Tenant's election, concurrently with Tenant's delivery of a First Offer Exercise Notice, Tenant may exercise and send the Option Exercise Notice even if it did not previously send the Interest Notice, but if Tenant did not send the Interest Notice, the sending of the Option Exercise Notice shall be sent, if at all, not less than twelve (12) months prior to the expiration of the Lease Term, or, when appropriate, the applicable Option Term.